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Case No. 3:23-cv-03461-TLT

PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTHERN CALIFORNIA
SAN FRANCISCO DIVISION**

COURTNEY MCMILLIAN and RONALD COOPER, on behalf of themselves and all others similarly situated,

Plaintiffs,

V.

X CORP., f/k/a/ TWITTER, INC.,
X HOLDINGS, ELON MUSK, Does.

Defendants.

Case No. 3:23-cv-03461-TLT

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE**

Honorable Trina L. Thompson

DATE: April 23, 2024

TIME: 2:00 pm PT

LOCATION: Courtroom 09

Opposition filed: February 9, 2024

Plaintiffs Courtney McMillian and Ronald Cooper, on behalf of themselves and all others similarly situated, submit this Request for Judicial Notice. Plaintiffs request that the Court take judicial notice of documents filed with the U.S. Securities and Exchange Commission (SEC):

1. Form 8-K and attached Merger Agreement filed by Twitter, Inc. with the SEC, dated April 25, 2022, attached as **Exhibit A**; and

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1 2. Form S-1, Exhibit 10.10 (“Twitter, Inc. Change of Control and Involuntary
 2 Termination Protection Policy”), filed with the SEC on Oct. 3, 2013, attached as
 3 **Exhibit B.**

4 For adjudicative facts that “can be accurately and readily determined from sources whose
 5 accuracy cannot reasonably be questioned,” the court “must take judicial notice if a party requests
 6 it and the court is supplied with the necessary information.” Fed. R. Evid. 201(b)(2), (c)(2). The
 7 documents listed above are publicly available documents filed with the SEC and their authenticity
 8 cannot be challenged. *See, e.g., Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1064
 9 (9th Cir. 2008) (judicial notice of publicly available financial documents including SEC filings
 10 was proper at motion to dismiss stage); *Dreiling v. Am. Exp. Co.*, 458 F.3d 942, 946 (9th Cir. 2006)
 11 (SEC filing subject to judicial notice). This Court may also take judicial notice of the contents of
 12 the Merger Agreement, attached to Twitter’s April 25, 2022 Form 8-K (Exhibit A), because it was
 13 alleged in Plaintiffs’ complaint. Dkt. 13, Amended Class Action Complaint ¶¶ 8, 40-48. A district
 14 court may consider documents “whose contents are alleged in a complaint and whose authenticity
 15 no party questions, but which are not physically attached to the [plaintiff’s] pleading.” *In re Silicon*
 16 *Graphics Inc. Sec. Litig.*, 183 F.3d 970, 986 (9th Cir. 1999).

17 For these reasons, Plaintiffs’ Request for Judicial Notice must be granted.

18
 19 DATED: February 9, 2024

Respectfully submitted,

20 Sanford Heisler Sharp, LLP

21 By: Kate Mueting

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PLAINTIFFS’ REQUEST FOR JUDICIAL NOTICE

CERTIFICATE OF SERVICE

2 I hereby certify that on February 9, 2024, I electronically filed the foregoing with the Clerk
3 of the Court using the CM/ECF system, which will send a copy of this filing to all counsel of
4 record.

6 || DATED: February 9, 2024

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